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Report of the Working Group on the Universal Periodic Review*

Samoa

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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Introduction

1. The Independent State of Samoa takes note of the recommendations made in the second review during the 18th Session of the Working Group in the Universal Periodic Review (UPR), held on 3rd of May 2016.

2. The UPR Working Group adopted Samoa's national report A/HRC/WG.6/25/L3 on 9th of May 2016 during its 18th Session.

I. International instruments

Recommendations 96.27, 96.28, 96.29 and 96.30

3. Samoa remains committed to ensure that it ratifies all core human rights conventions to safeguard the citizens and their rights. However, Samoa will pursue the ratification of all international treaties on the basis of priorities, taking into account capacity and resource constraints in fulfilling obligations stipulated therein. Therefore, Samoa will **note** these recommendations.

4. The Government of Samoa, as it does all other conventions it is Party to, undertakes to continue the careful and active assessment of Samoa's accession to these remaining conventions that includes its ability to fulfil all obligations required by each convention such as reporting, legislative, financial and institutional requirements to ensure Samoa is able to deliver, upon becoming a State Party to these conventions.

Recommendation 96.20

5. Samoa thanks the Working Group members for this recommendation on the ratification of the optional protocol for CRC. Samoa was the first Pacific Island Nation to ratify the following three Optional protocols of the CRC on (i) the involvement of children in armed conflict ii) on the sale of children and iii) child prostitution of children in May and April 2016.

6. This shows Samoa's strong commitment in the protection of children from harmful practices that may affect their rights and freedoms. As such, Samoa **accepts** this recommendation.

Recommendations 96.4, 96.5, 96.2, 96.16 and 96.21

7. Samoa is party to the eight fundamental human rights International Labour Organization conventions. Government ensures that labour standards and regulations as prescribed by these ILO conventions are complied with.

8. Samoa undertakes to **consider and assess** its accession to the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families relative to its ability to meet treaty obligations.

Recommendations 96.6 and 96.22

9. Samoa recognizes the importance of the Convention on the Prevention of the Punishment of the Crime of Genocide however we believe that consultations between and

among authorities and stakeholders are needed in order to fully understand and ensure we have the capacity to implement the Convention before a commitment is made to accede to it. Therefore, Samoa **notes** this recommendation.

Recommendation 96.2

10. Samoa has recently completed the CRPD legislative compliance review so that Government is able to establish legal frameworks that will support full implementation of the Convention. Samoa will ratify CRPD by December 2016. The Government of Samoa recognizes that people with disabilities should be empowered, their rights recognized and that they should be included in the mainstream of civil, political, social, cultural and economic life, therefore Samoa **accepts** this recommendation.

Recommendation 96.26

11. Samoa recently enacted the Crimes Act 2013 which replaces and modernizes the Crimes Ordinance 1961 which came into force in May 1 2013.

12. The Crimes Act 2013 contains a range of new offenses including "computer-related offences, people smuggling and trafficking offences. Human Trafficking in the Crimes Act 2013 has a penalty of 14 years imprisonment. Samoa **notes** this recommendation on the grounds that the Government will continue its assessment of the implications of ratification to make sure it delivers on prescribed obligations upon becoming a state party.

Recommendations 96.1, 96.2, 96.3, 96.7, 96.8, 96.9, 96.11, 96.12, 96.13, 96.14, 96.16, 96.6, 96.18, 96.19, .96.20, 96.21, 96.27, 96.23, 96.24, 96.25

13. With respect to the accession to ICESCR and its Optional Protocol, ICERD, the Government will continue its assessment of the implications of membership to make sure it is able to deliver on prescribed obligation upon becoming a state party. Thus far, Samoa **notes** this recommendation.

14. Samoa has national legislation and policies in place such as the Ombudsman Act 2013, whereby the Office of the Ombudsman has the mandate to inspect all places of detention in Samoa. The Special Investigations Unit (SIU) established under the Ombudsman Act 2013, independently monitor and investigate complaints against the police and the other prescribed forces. In addition, the Prisons Act 2013 and the Prisons Regulation 2014 are national directives which set out the strategic direction of the work of the Samoa Prisons and Corrections Services. As such, Samoa **notes** this recommendation to ratify CAT and its Optional Protocol.

Recommendation 96.15 and 96.10

15. Samoa has ratified ICCPR and it has formally abolished the death penalty in the Crimes (Abolition of Death Penalty) Amendment Act 2004, whereby the death penalty was commuted to life imprisonment. Samoa is making every effort to meet its international obligations as a party to ICCPR and will undergo consultations with relevant authorities on the ratification of the Optional Protocol of ICCPR. Therefore, Samoa **notes** this recommendation.

II. Domestic legislation

Recommendations 96.38

16. The Childcare Protection Bill 2013, which contains a legislative and policy framework for the care and protection of children, also would domesticate the Convention on the Rights of the Child in its entirety. This bill also seeks to prohibit corporal punishment, which is partly prohibited in schools and day care settings. This work is ongoing for Samoa in order to achieve prohibition in all settings, school, alternative care and at home, therefore this recommendation is **noted**.

17. In relation to eliminating child labour, the 1972 Labour and Employment Act was reviewed, whereby the newly enacted labour law, Employment Relations Act 2013 setting out work conditions for a 15 year old and 18 year old child. In addition, a Child Labour Taskforce has started in an attempt to implement basic strategies to address issues of 'children involved in vendor services' particularly during school hours.

18. Compulsory education is essential in an effort to engage the compulsory aged child throughout the school hours in school rather than being involved in street trading during school hours. The Education Act 2009 stipulates compulsory education under Part II, Division 4, and number 20. Despite financial constraints, Samoa with the support of the Government of Australia and New Zealand initiated the Samoa School Fees Grant Scheme (SSFGS) to enhance the accessibility of basic school education by all children of Samoa from Year 1 to Year 11. In addition, the reservation on article 28 paragraph 1 (a) of the CRC is still in place, Samoa has taken initial steps to implementing free education, through the SSFGS paid entirely by the Government for primary schools and three years of secondary schooling. The SSFGS does not extend to the private schools which is eligible for Government grant funding on an annual basis.

III. Equality and non-discrimination

Recommendation 96.34, 96.31 and 96.36, 96.32, 96.33 and 96.35

19. Samoa continues to make efforts to ensure all citizens' rights regardless of their gender are safeguarded. The new Samoa Development Strategy 2017-2020 which will come into effect on July 1, 2017 will be used to implement Agenda 2030 and the SDGs, the S.A.M.O.A Pathway, the Paris Accord, the Addis Ababa Action Agenda and other global platforms Samoa is party to. To note, SDG 5: Gender, focuses on empowering communities for sustainable development including mainstreaming gender equality in policy development.

20. The Constitution of Samoa declares the protection of fundamental rights and individual freedoms, regardless of gender. Decriminalizing sexual activity of sodomy and the repeal of all provisions criminalizing homosexual relations are not possible at this time because of cultural sensitivities and Christian beliefs of the Samoan society. The acceptance of this recommendation will go against the spirit of our Constitution which is founded on Christian principles. Consequently, Samoa **notes** these recommendations.

21. Following the consolidation of all Samoa's laws in 2007, all laws are now written in gender balance language.

IV. Protection and promotion of human rights

Recommendation 96.37

22. A Specialist Family Violence Court has been set up to deal with family violence issues and child protection. In addition, Samoa has undertaken 16 Days of Activism on the Elimination of Violence against Women, White Ribbon Day and National Human Rights Day, International Day for Prevention of Child Abuse and Neglect, which are just some of the major campaigns that have been coordinated jointly by Government, NGOs and community based organizations.

23. The Office of the Ombudsman in Samoa is an independent institution that protects and promotes human rights at a national level and has received 'A' status accreditation recently whereby it is compliant with the Paris Principles which is recognition of the work done since its establishment two years ago. The Office of the Ombudsman observes an impartial approach to the conduct of investigations as well as observing procedural fairness at all times. Its role in raising awareness of human rights assists in the Government's efforts to reduce violence against women and girls.

24. Samoa has achieved a milestone in the legislation landscape with the passing of the Family Safety Act 2013, which provides greater protection of families and handling of domestic violence and related matters through the use of protection orders. Another notable legislation enacted is the Crimes Act 2013, which introduced several significant changes to provisions relating to sexual offences including a variety of forms of unwanted sexual contact and the criminalization of marital rape.

25. The Gender Program funded by the Government of Australia and the UN country team contracts non-governmental organizations to deliver public awareness and community conversations through traditional drama cultural songs and dance. This recommendation is therefore **accepted**.

V. Conclusion

26. The Government of Samoa has much to be proud of in terms of goals and milestones achieved since its first UPR in 2011, and it remains committed to the promotion and protection of all its citizens. Challenges remain in the form of financial constraints and capacity however, the Government of Samoa is resolute in its efforts to address the challenges in order to ensure that every Samoan enjoys their basic rights.